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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10-069,494	06/28/2002	Bernd Laudi	23427N1PCT.US	3223

7590 04/24/2003

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866 United Nations Plaza Suite 473
New York, NY 10017

EXAMINER

MEDLEY, MARGARET B

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,494

Applicant(s)

LAUDI ET AL.

Examiner

Margaret B. Medley

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 13-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8

- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

• Art Unit: 1714

DETAILED ACTION

This action is in response to the preliminary amendment, Paper No. 4 dated June 2002. Applicants newly added Abstract, the amendment to page 1: lines 3 and 30, the cancellation of claims 1-12 and the addition of claims 13-21 have been entered of record. The pending claims of record are claims 13-21.

Claims 13-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13 it is suggested that applicants may amend the claim for clarity by inserting the article "a" before "Flammable", insert the phrase "fire lighting aid" after "flammable", delete the phrase in lines 1-2 "in particular in a form of a fire lighting aid, such as" and insert "selected from the group consisting of" delete "respectively" in line 4, and delete the phrase "made" and insert the phrase "consisting" to be consistent with the language of originally filed claim 1.

In claims 14-21 it is suggested that applicants insert the phrase "The" before the term "Flammable" for clarity.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1714

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreiner et al (Schreiner) 5,713,964 combined with Schuster 5,053,057 and the Merck Index in view of Tanner 3,801,292 and Smith et al (Smith) 4,083,697.

Schreiner teaches a liquid composition comprising liquid paraffin and ferrocene, abstract and column 2 lines 11-65 and column 7, lines 54-67. Patentee lacks teachings to the silicic acid.

Schuster teaches that it has been known in the art to add silicic acid to a denatured alcohol as a firelighter for coal and wood for a grill or fireplace, column 1, lines 5-11, providing the motivation for adding the silicic acid to the composition of Schreiner to provide a firelighter composition for a grill fireplace.

The Merck Index is relied on as a teaching reference and teaches the artisan in the art that silicic acid is precipitated silica, noted 8326 on page 1220.

Tanner teaches a firelighter composition in a jelly or paste comprising an organic fuel dispersion (paraffin cut, column 6, lines 11-21 and column 1, lines 62-65) in a liquid vehicle, abstract, which solidifies upon combustion providing the motivation that the paraffin of Schreiner are used in firelighters and would produce a gel or solid upon ignition.

Smith teaches firelighter comprising the particulate solid fuel distributed uniformly throughout the firelighter, note the abstract, providing the motivation for homogenously distributing the silicic acid of Schuster throughout the composition of Schreiner rendering the instant claims obvious.

The examiner takes the position on record that the silicic acid of Schuster and the Merck Index are broad and would encompass the precipitated silicic acid of claim 14, the pyrogenic silicic acid of claim 15, the hydrophilic acid of claim 16 and the hydrophilic silicic of claim 17 or it would be obvious to the artisan in the art to produce the various form of the silicic acid with the reasonable expectation that the silicic acid in its various form would produce the same result in the composition of Schreiner .

The examiner takes the position on record that the paraffin wax of Schreiner is broad and would encompass the slack wax of claim 18 and the Fischer-Tropsch synthesis paraffin of claim 19.

The prior art cited but not applied further teaches firelighter of the same nature as claimed by applicants.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is (703) 308-2518. The examiner can normally be reached on Monday--Friday from 7:30 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Application/Control Number: 10/069,494

Page 5

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M. B. Medley/dh
April 23, 2003

Margaret B. Medley
MARGARET MEDLEY
PRIMARY EXAMINER